



The Attorney General of Texas

December 21, 1982

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Mr. F. J. Coleman, Jr.
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Open Records Decision No. 333

Re: City of Houston Police
Department "Vice Division Daily
Contact Sheet"

Dear Mr. Coleman:

You have asked whether the Open Records Act, article 6252-17a, V.T.C.S., requires the city of Houston to release certain information. Because the facts as to the procedural aspects of this request are relevant to our conclusion, we will set them out in some detail. These facts are relevant to the question of whether the records were submitted to this office in a timely fashion as required by section 7 of article 6252-17a.

By letter of May 11, 1982, the city editor of the Houston Chronicle asked the mayor of Houston for "immediate and continual access to blotters maintained by all divisions of the Houston Police Department." The editor contended that police blotters were held to be public information in Houston Chronicle Publishing Company v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App. - Houston [14th Dist.] 1975), writ ref'd n.r.e., 536 S.W.2d 559 (Tex. 1976). On May 21, 1982, the city attorney of the city of Houston responded to this letter, and on May 24 he and the city editor engaged in a telephone conversation. On both occasions, the city attorney expressed his opinion that some of the information at issue was public under Houston Chronicle and Open Records Decision No. 127 (1976), but that some was not. He advised the city editor that any information not made public by these decisions would not be released.

By letter of May 25, 1982, the city editor, in response to the city attorney's request that he state more precisely what information he wanted, advised that he desired access to "the Houston Police Department Vice Division arrest book, a document in the nature of a police blotter as described in [Houston Chronicle]." The editor again stated that this constituted public information. By letter of June 3, the mayor of Houston asked this office for a formal decision as to whether this document -- which, she advised, is actually called a "Vice Division Daily Contact Sheet" -- must be released.

The city submitted a sample daily contact sheet to us. These sheets contain the name, race, sex, and age of individuals who are arrested on a particular day, the nature, time, and location of the alleged offense, and the name and division of the arresting officer(s). We understand that the city regards this as public information and does not seek to withhold it. These sheets also, however, identify individuals who are known as police "contacts." We are informed that these "contacts" are individuals who "are utilized by the Vice Division as a source of actual or potential informants and as a means of identifying locations which because of high criminal activity profiles demand greater police attention."

As we understand the facts, the sole question before us is whether the city must divulge the names of these "contacts." The city editor argues that inasmuch as these names are on the police blotter, the Houston Chronicle case requires their release. The city, on the other hand, contends that names of police contacts are not among the information that was made public in Houston Chronicle and in Open Records Decision No. 127 (1976), and that they may be withheld under section 3(a)(1) of the Open Records Act, which excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision," or section 3(a)(8), which excepts:

records of law enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law enforcement agencies which are maintained for internal use in matters relating to law enforcement.

Before turning to the merits, we must address the threshold question. In letters to the city attorney and to this office, the editor argues that the information in question is presumptively public because the city did not seek our decision in this matter within 10 days after it received the editor's May 11 request letter. See V.T.C.S. art. 6252-17a, §7(a). In our opinion, however, the relevant correspondence clearly shows that until May 25, both parties believed this matter could be resolved informally. During the previous two weeks, the city attorney and the city editor each attempted to convince the other that his reading of Houston Chronicle was erroneous. Not until May 25 did it become obvious that a formal Open Records Decision would be necessary.

It also appears that prior to May 25, there was legitimate confusion on the city's part as to the scope of the editor's request. His May 11 request was extremely broad, and referred only generally to "blotters." In the May 24 telephone conversation, the city attorney apparently asked for clarification of this request in light of his statements regarding Houston Chronicle. In response, the city editor

narrowed his request to a particular document, but even then he failed to properly identify the document.

Given this sequence of events, we conclude that the editor's May 25 letter to the city attorney should be treated as the operative request for this information. Since the city asked us for a decision on June 3, it met the 10-day deadline.

We now consider the city's section 3(a)(1) and 3(a)(8) claims. We first note that we agree with the city attorney's conclusion that neither Houston Chronicle nor Open Records Decision No. 127 (1976) requires public disclosure of the names of police "contacts."

In Open Records Decision No. 287 (1981), we said:

The section 3(a)(8) exception protects a law enforcement agency's records and notations if their release would unduly interfere with law enforcement. Cf. Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977).

See also Open Records Decision No. 313 (1982). We made essentially the same observation in Open Records Decision No. 297 (1981), which dealt with the question of whether the names of witnesses in a police investigation had to be released. There we stated:

Much of the information requested here consists of the names and statements of witnesses. In our opinion, the names of these persons and their statements may be withheld if it is determined:

from an examination of the facts of the particular case that disclosure might either subject the witnesses to possible intimidation or harassment or harm the prospects of future cooperation between witnesses and law enforcement officers....

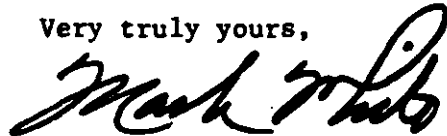
If you make the requisite determination, as indicated supra, you may withhold the names and statements of witnesses... under section 3(a)(8)....

The city refers to these "contacts" as both "witnesses" and "informants," while Open Records Decision No. 297 talks only about "witnesses." Regardless of what these contacts are called, however, we believe the reasoning of this decision is applicable in this instance. "Contacts" are an integral part of effective law enforcement. They provide officers with vital information concerning

lawbreakers, potential witnesses and informants, possible locations of criminal activity, etc., that officers likely could not learn otherwise. If their identities were released to the public, the likelihood that they would continue to assist the police or even be of any value to them would be negligible. The chances of their being harassed or subjected to bodily injury would also be greatly enhanced.

You have made the determination required by Open Records Decision No. 297 that public disclosure of the names of these police contacts would either harm the prospects of future cooperation between them and law enforcement officers or subject them to possible intimidation or harassment. In fact, you have determined that both results are probable. In our opinion, your determination is reasonable. We therefore conclude that because the release of this information would very likely interfere unduly with the police department's ability to enforce the law, section 3(a)(8) authorizes you to withhold these names. In view of our decision, we need not determine whether these names would also be excepted from disclosure under section 3(a)(1). See Open Records Decision No. 156 (1977).

Very truly yours,



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